

# **The Wichita Stop Study 2004 Follow-Up Analysis**

Brian L. Withrow, Ph.D.  
Midwest Criminal Justice Institute  
Wichita State University  
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## **The Wichita Stop Study – 2004 Follow-Up Analysis Executive Summary**

In 2001 the Wichita Police Department conducted a comprehensive racial profiling study. During the first six months of the year WPD officers recorded detailed information relating to 37,454 police/citizen contacts. To date this data set remains one of the most comprehensive racial profiling studies available. Generally, the study found that some racial and ethnic minority citizens (specifically Black and Hispanic citizens) are stopped, searched, or arrested at disproportionately higher rates than they are represented in the community. Racial and ethnic group representation was estimated using the 2000 United States Census. Despite this disparity the researcher was not able to conclude that WPD officers use the race or ethnicity of an individual as a means for determining whom to stop, i.e. racial profiling.

After a public presentation of the 2001 study findings Chief Norman Williams implemented a series of new policies, programs, and procedures specifically designed to address the overrepresentation of racial and ethnic minorities in police/citizen contacts. In addition, the Department agreed to replicate the study in 2004. The following outlines the major findings of this replication.

- Data collection for the 2004 Follow-Up Analysis began in January 2004 and ended in June 2004. A total of 25,418 police/citizens contacts were recorded.
- Consistent with the 2001 study, in 2004 most stops are predicated on an officer observed moving traffic violation.
- The benchmark used to estimate the racial and ethnic proportion of individuals at risk of being stopped was developed (as in 2001) from the 2000 U.S. Census. Based on this estimate, Black citizens are stopped at a higher proportion (18.6 percent) than they are represented in the population (11.4 percent). No other racial or ethnic group is similarly overrepresented. By comparison, in 2001 Black citizens represented a higher proportion (20.7 percent) of all police/citizen contacts.
- As in the initial study, the duration of a typical traffic stop is not affected by the race or ethnicity of the driver.
- In 2001 only 0.9 percent of all stops involved physical resistance and stops involving Native American, Hispanic and Black citizens were more likely to involve physical resistance. In 2004 only 0.6 percent of all stops involve physical resistance. Stops involving Hispanic and Native American citizens are not more likely to involve physical resistance. Stops involving Black citizens are again more likely to involve physical resistance. However, the data in neither study determine when or why physical resistance occurs during a stop.
- In 2001 only about 12.2 percent of all stops involve some form of a search. Stops involving Black or Hispanic citizens were slightly more likely to involve a search. In 2004 the pattern is quite different. Racial and ethnic minority citizens are not more likely to be subjected to a search pursuant to a stop.
- Because of their discretionary nature, consent searches are of special interest to racial profiling researchers. In 2004, Black and Hispanic citizens stopped by

WPD officers are considerably more likely to be asked to consent to a search than citizens of other races or ethnicities.

- As in the previous study, most police/citizen contacts result in the issuance of a moving violation citation.
- Black, Native American, and Hispanic citizens are arrested at disproportionately higher rates than White, Asian, Other race, and non-Hispanic citizens. However, a substantial proportion of arrests involving Black and Hispanic citizens are non-discretionary, meaning that the arrest was predicated on an active arrest warrant and not the officer's discretion.

The WPD's procedures with respect to discretionary consent searches should be reconsidered. Currently, the Department only recommends officers secure written consent. Officers should be required to obtain written consent prior to conducting a search. In addition, the Department should consider imposing a series of '*Miranda-like*' warnings that would fully inform citizens of their right to refuse to consent to a search prior to requesting permission.

Only one other major municipal police department has replicated a comprehensive racial profiling study. In 2000 the San Diego Police Department conducted its first racial profiling study. This study was replicated in 2001. Generally, the study found that minority citizens were stopped and searched at disproportionately higher rates during the follow-up study. Overall, it appears that the Wichita Police Department's administrative responses to racial profiling have been effective. The decrease in the overrepresentation of Black citizens in police/citizen contacts from 2001 to 2004, although small, is encouraging. However, because it is inordinately difficult to estimate the racial and ethnic proportions of the at-risk (of being stopped) population there is considerable error associated with this comparison.

To overcome this methodological obstacle the researcher conducted a separate analysis comparing the stopping performance (i.e. race and ethnicity of individuals stopped) of similarly situated (same patrol beat) officers. This analysis would identify individual offices that stop disproportionately higher proportions of racial and ethnic minorities. However, no such pattern was found.

Brian L. Withrow, Ph.D.  
Midwest Criminal Justice Institute  
Wichita State University

## **The Wichita Stop Study – 2004 Follow-Up Analysis**

### **Introduction**

General awareness of the racial profiling controversy began slowly in the late 1980's, and by the mid-1990's it had become, and remains, one of the most critical issues in American policing. The controversy began within the context of drug interdiction and the alleged use of race or ethnicity as an indicator of criminal suspiciousness. The police, allegedly acting on a belief that certain racial or ethnic minorities are more likely to be in possession of illegal drugs, routinely initiated pretextual traffic stops involving a disproportionately higher percentage of these individuals for the purpose of conducting consensual searches. Given the breadth of the traffic code, the near inevitability of committing a violation, and a lack of awareness among the public of their right to refuse to consent to a search, the pretextual stop is one of the most effective enforcement tools available to police officers. But, is race or ethnicity a valid indicator of criminal suspiciousness? After more than a decade of research it is clear that race and ethnicity are not valid indicators of potential criminal behavior. Overwhelmingly, the research indicates that racial minorities are not more likely to be in possession of illegal drugs and related contraband.

### **Background**

The first racial profiling study of national significance occurred in 1994 in New Jersey and was part of a court proceeding. Since then more than 400 police agencies nationwide have participated in some form of a racial profiling study. Collectively, these studies represent the most significant inquiry into police systems and practices in the history of our nation. They have taught us quite a lot about how and why the police discharge their duties. In 2001 the Wichita Police Department addressed the racial

profiling controversy proactively. With the assistance of a working group of community representatives, the WPD designed a comprehensive data collection effort to assess racial profiling in routine enforcement activities (e.g. traffic stops). Employees of the Department collected the data. The data collection started in January 2001 shortly after a series of training sessions were provided to the employees responsible for completing the data collection forms. In July 2001 representatives from the Wichita Police Department provided the principal investigator with a data set representing six months of police stop data including 37,454 stops. At the time this was the largest and most qualitatively complete data set of its type available. The data were analyzed in four key areas– the context of the stops, qualitative features of the stops, how and why searches were conducted, and the results of the stops. The results of the 2001 study are summarized in the following section.

### **Overall Findings in 2001**

Probably the most significant finding of the 2001 analysis was the level of consistency that existed in the enforcement activities of the Wichita Police Department. The findings, regardless of whether or not disparity was found, were (with rare exception) consistent throughout the Department. In short, the enforcement patterns of the Wichita Police Department did not differ substantially or illogically with respect to any of the variables internal to the Department (officer age, officer gender, officer race, officer experience, shift, day, time or beat) available to the researcher. Importantly, this also suggested that the patterns of disparity may be better explained by variables external to the Department.

It appeared in 2001 that the data collection effort may have had a dampening effect on at least one of the enforcement activities of the Department. When compared to

the same period in the previous year (2000), officers from the Wichita Police Department issued about thirty percent fewer citations during the 2001 data collection period. Even though most area departments experienced a reduction in the number of tickets issued during the same period, none were as dramatic as the reduction in the city of Wichita. The principal investigator however recognized that there were a number of other internal and external factors that could affect the number of tickets issued by a department. For example, shortly before the data collection began the Department redistributed its traffic enforcement bureau (a historically high producer of traffic stops) from its headquarters to the four patrol districts.

Finally, as a caution, it is important to note that evidence of racial or ethnic disparity is not necessarily definitive *proof* of racial profiling. Police decision-making is complicated, dynamic and reactive. In order to fully understand the results of decisions we must first understand the process by which the decisions are made. Unfortunately, this data set could not document this process. It is safe to say that disparity existed in 2001 with respect to race and ethnicity within some of the routine enforcement practices of the Wichita Police Department. One could not however determine from these results how much of this disparity, *if any*, was based on racial or ethnic prejudice.

### ***The context of the stops***

More than half of the individuals stopped by the Wichita Police Department in 2001 were stopped for a moving violation, another fifth as the result of a traffic accident and a little more than a tenth for a defective equipment violation. While the general reason for the stop was consistent throughout all race and ethnic groups, there appeared to be some overall disparity with respect to the race of the individual stopped. When compared to their proportional representation throughout the community, Black citizens

were stopped at disproportionately higher rates than White, Asian, Native American, Other Race and Hispanic citizens. A logistic regression model predicted that citizens stopped during the nighttime hours, at the officer's discretion and in the company of other citizens were more likely to be Black.

***Qualitative features of the stops***

Without regard to the general reason for the stop or the results of the stop, in 2001 most stops throughout the city lasted from five to fifteen minutes. With the exception of Native American citizens, this pattern was consistent with respect to race and ethnicity. Traffic accidents and probable cause stops were the most time consuming types of stops. Stops resulting in any type of search, physical resistance or more severe responses (arrests) understandably required more employee time. A logistic regression model predicted that the duration of a stop increased if it resulted in an arrest or included a search. This same model predicts that the ethnicity of the citizen did not affect the length of the stop. Contrary to previous research findings, stops involving Black citizens were more likely to be slightly briefer than stops involving non-Black citizens.

Very few stops resulted in physical resistance. Stops involving Asian and White citizens resulted in disproportionately fewer incidents of physical resistance. Stops involving Native American, Hispanic and Black citizens resulted in disproportionately more incidents of physical resistance. Younger officers were more likely to be involved in a stop that included physical resistance. The general reason for the stop did not appear to substantially predict physical resistance. But, the result of the stop (i.e., its severity) did appear to affect the probability of physical resistance. A logistic regression model predicted that stops conducted by more than two officers, resulting in an arrest, or involving a search were more likely to include physical resistance. However, the

temporal order of this causal relationship could be established. This same model predicted that a citizen's ethnicity did not affect the likelihood of physical resistance. However, if the citizen stopped was Black then the likelihood of physical resistance increased.

Most stops involved one officer. A logistical model predicted that stops resulting in an arrest, involving a search, occurring in high crime areas and including multiple citizens were more likely to involve more than two officers. This is a predictable finding because the Wichita Police Department requires officers to request assistance in these situations. Contrary to previous research findings, this same model predicted that neither the race nor ethnicity of the citizen appeared to influence the number of officers at a stop.

#### ***How and why searches were conducted***

Only about twelve percent of all stops in 2001 resulted in a request to search a citizen or vehicle. Even though stops are relatively evenly distributed across all three shifts, the majority of searches occurred during the night shift.

A logistic regression model predicted that stops resulting in an arrest are most likely to involve a search. Here again, the Wichita Police Department requires its officers to search individuals pursuant to an arrest. Stops occurring at night were more likely to include a search. This is likely due to an officer's desire for personal protection. Both the race and ethnicity of the citizen appeared to affect the probability of a search. Consistent with previous research findings, Black and Hispanic citizens were more likely to be searched than non-Black and non-Hispanic citizens.

#### ***The results of the stops***

Most stops in 2001 resulted in the issuance of a citation. Only about a tenth of all stops resulted in an arrest. The general reason for the stop influenced the result of the



stop. Most stops for a moving violation, DUI/DL Check Lane or defective equipment violation resulted in the issuance of a citation. Most probable cause stops resulted in a misdemeanor arrest. Most stops for suspicious circumstances and pedestrian stops resulted in no action taken.

A logistic regression model predicted that stops involving a search or physical resistance were more likely to result in an arrest. This same model predicted that stops involving Black and Hispanic citizens are more likely to result in an arrest. However, the data set could not establish the relationship between the reason for the stop and the results of the stop.

### **The Department's Response**

To accomplish the initial racial profiling inquiry in 2001 the Wichita Police Department initiated a S.A.R.A. problem solving model. This model is commonly used by police departments interested in addressing various community problems. It involves;

- Scanning – identifying an issue
- Analysis – collecting information from a variety of sources
- Response – information is used to develop and implement solutions
- Assessment – evaluating the effectiveness of the response.

After the results of the 2001 inquiry (a key component of the analysis part of the S.A.R.A. problem solving model) were released the Department implemented a rather comprehensive set of responses. First, the Department promulgated a series of policies designed to communicate to police officers an acceptable standard of conduct. The Professional Conduct Regulation is intended to provide police officers with specific direction on how to exercise their authority while initiating traffic stops. This policy specifically prohibits the use of race or ethnicity as factor in deciding whom to stop.

Policy 409 defines racial profiling, the concept of reasonable and articulable suspicion and provides direction for officers conducting consent searches.

*New Professional Conduct Regulation*

*The initiation of traffic/pedestrian(s) stops must be based on reasonable and articulable suspicion or actual violation of the law committed by the occupant(s) of the vehicle or pedestrian(s). Safety reasons alone may justify the stop if the safety reasons are based upon specific and articulable facts. Members of the Department may not rely to any degree on the race, color, gender, disability or religion of the occupant(s) of a vehicle or pedestrian(s) as the sole deciding factor of whether to stop the vehicle/pedestrian(s), in taking enforcement action or conducting a search.*

*Policy 409*

*Racial profiling: The detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.*

*Reasonable and articulable suspicion: Suspicion that is more than a mere hunch, but is based on a set of articulable facts and circumstances that would warrant a person of reasonable caution in believing that a violation of the law has been committed, is about to be committed, or is in the process of being committed, by the person or persons under suspicion. This can be based on the observations of a police officer combined with his or her training and experience, and/or reliable information received from credible sources.*

*It is recommended that consent searches only be conducted with written consent, using the Wichita Police Department form #322.106. If the individual indicates that they will consent to a search but are refusing to sign the form, fill out the form anyway and indicate "consent to search but refused to sign," inserting initials and the signature of any witness in the signature block.*

Second, the Department initiated comprehensive training programs designed to make police officers aware of the racial profiling controversy and how their behavior may be perceived as racially biased. These training programs were offered formally (in an academy setting), informally (during daily roll calls) and via a professionally developed video presentation. An important learning objective permeating the training response

was to make police officers more culturally literate. Third, the Department promulgated a proactive citizen complaint procedure. This procedure requires police officers to proactively report incidents to their supervisor that could potentially be construed to be racially biased. For example, if a citizen articulates an allegation that an officer's decision to initiate a traffic stop is racially motivated then the officer must inform his supervisor. The supervisor is then required to contact the citizen and evaluate the merits of the complaint. Unlike the citizen complaint policies of most other police departments, this procedure does not require a citizen to file a formal complaint, a historically onerous and intimidating process. Finally, the Department agreed to replicate the 2001 study in 2003. The overall purpose of this follow-up study is to determine whether the administrative, policy and training programs developed in response to the 2001 study's findings had any affect on the enforcement behavior of Wichita Police Department officers.

#### **The 2004 Racial Profiling Follow-Up Study**

Nearly all racial profiling researchers develop a benchmark or baseline to estimate the racial representation of individuals at-risk of being stopped within their particular study sites. In 2001 the research partner chose to develop a benchmark based on the newly published 2000 United States Census. While other benchmark estimates could have been developed (e.g. accident records, field observations) the researcher chose to base the benchmark on the population of the Wichita area primarily because the police stop data set included all individuals (including children) contacted by the police. Because the population of Wichita has remained relatively stable since the 2000 Census was tabulated the researcher will again use these figures to estimate the racial and ethnic representation of individuals at-risk of being stopped.

In July, 2004 the Wichita Police Department provided the researcher with a data set including 25,418 records of police stops occurring from January through June of 2004. The structure of the data set, with respect to its variables and their attributes, is similar to that used in the 2001 initial study. The primary difference is that the 2004 data set does not include demographic data (age, gender, race, and years of experience) of the officers that made the stops. The 2001 analysis, as well as analyses conducted within the last decade in other cities, found no evidence that differences among police officers produce any differences in their enforcement behaviors.

Consistent with the format of the 2001 report the data from the 2004 follow-up study will be analyzed in four general dimensions.

- The context of the stops
- Qualitative features of the stops
- How and why searches were conducted
- The results of the stops

First, the series of analyses on the context of the stops considers the officers' stated reasons for the stops, and the race, ethnicity, age, and gender of individuals stopped by Wichita Police Department officers. These particular analyses attempt to determine whether any particular races or ethnicities are over represented in police stops, when compared to the benchmark estimate of drivers at risk of being stopped. Second, a series of comparative analyses of the qualitative features of the stops themselves considers the duration of the stops, incidents of physical resistance, and the number of officers present during stops. Here again, special attention is given to what effect the race or ethnicity of the driver stopped may have on these police/citizen contacts. Third, analyses on the decision to search focus on what factors affect a police officer's decision to initiate a search, with particular attention given to discretionary searches (i.e. consent, stop and

frisk). In addition this section explores potential connections between the reason for the stop and the decision to search. Search hit rates, a critical concern in racial profiling research are also analyzed in this section. Fourth, the results of the stops are analyzed with respect to the race and ethnicity of the citizen. Here again, possible correlations between the relative alleged severity of severity of the reason for the stop (i.e. seriousness of the suspect's behavior) and the outcome of the stop are explored. In each of these dimensions the 2004 follow-up study results are compared to the previous 2001 study's results.

***The context of the stops***

In 2001 nearly half (47.6 percent) of all stops were predicated on an officer observed moving violation. The second most common reported reason for a police/citizen contact in 2001 was for a non-injury traffic accident (13.1 percent). In 2004 this pattern is somewhat different. Officer observed moving violations are again the most common (69.3 percent) reported reason for initiating a traffic stop, but at a much higher proportion than 2001. The percentage of police/citizen contacts predicated on a non-injury traffic accident decreased from 13.1 percent in 2001 to 2.9 percent in 2004. In 2004 the second most common (8.1 percent) reported reason for a stop is for a defective equipment (lights and windshield) violation. This change is likely due to the Department's increasing emphasis on traffic enforcement, brought on by recent increases in motor vehicle crashes and traffic related fatalities throughout the city (see Tables 1 and 2).

**Table 1 - Reported primary reason for the stops.**

<b>Reported reasons for stops</b>	<b>2001 Percent of all stops (N = 37,454)</b>	<b>2004 Percent of all stops (N = 25,418)</b>
MV-Dangerous-Officer Observed	4.9	6.9
MV-Dangerous-Dispatched	.1	.1
MV-Dangerous-Citizen Reported	.1	.1
MV-Other-Officer Observed	47.6	69.3
MV-Other-Dispatched	.2	.2
MV-Other-Citizen Reported	.2	.1
DUI/DL Check Lane	.2	0
PC-BOLO-Radio Broadcast	.7	.6
PC-Personal Knowledge of Suspect	.5	.3
PC-Bulletin of Suspect	.4	.1
SC-Officer Observed	3.5	2.7
SC-Dispatched	.6	.3
SC-Citizen Reported	.5	.2
DE-Lights or Windshield	9.5	8.1
DE-Deliberate Modification	.2	.2
DE-All Others	1.7	2.1
DE-Dispatched	.0	0
DE-Citizen Reported	.0	0
SR-Officer Observed	1.8	.6
SR-Dispatched	.8	.3
SR-Citizen Reported	.2	.1
Pedestrian Stop-Violation	1.8	1.4
Injury Traffic Accident	6.5	.9
Non-Injury Traffic Accident	13.0	2.9
Citizen Contact-Miscellaneous/Other	4.8	2.3
Not Reported	.3	0
Total	100.0	100.0

Notes: "MV" = Moving Violation; "PC" = Probable Cause; "SC" = Suspicious Circumstances; "DE" = Defective Equipment; "SR" = Service Rendered

**Table 2 – Reported general reason for the stops.**

<b>General reasons for stops</b>	<b>2001 Percent of all stops (N = 37,454)</b>	<b>2004 Percent of all stops (N = 25,418)</b>
Moving violation	53.1	76.8
DUI/DL Check Lane	.2	0
Probable cause	1.6	1.1
Suspicious circumstances	4.6	3.2
Defective equipment	11.4	10.4
Service rendered	2.8	.9
Pedestrian stop	1.8	1.4
Traffic accident	19.5	3.8
Miscellaneous	4.8	2.3
Missing	.3	0
Totals	100.1	100.1

NOTE: Percentages may not equal 100.0% due to rounding error.

In 2001 the only racial or ethnic group overrepresented in traffic stops (when compared to the benchmark estimating the racial/ethnic proportions of individuals at risk of being stopped) was Black citizens. The initial study predicted (based on a population based benchmark) that 11.4 percent of the police/citizen contacts would involve Black citizens. The study found that 20.7 percent of these contacts involved Black citizens, well over the benchmark estimate. The follow up study predicted (based on the same benchmark) that 11.4 percent of the police/citizen contacts would involve Black citizens. The study finds that 18.6 percent of these contacts involve Black citizens. This exceeds the benchmark estimate but is a considerable reduction in the level of overrepresentation from the initial study (see Tables 3 and 4).

**Table 3 - Race of citizens stopped.**

<b>Race</b>	<b>Percent of population<sup>1</sup></b>	<b>Percent of all stops (2001) (N = 37,454)</b>	<b>Percent of all stops (2004) (N = 25,418)</b>
Asian	4.0	2.9	2.8
Black	11.4	20.7	18.6
Native American	1.2	.3	.2
White	75.2	71.1	74.9
Other Race	8.2	4.9	3.3
Not reported	-	.1	.2
Total	100.0	100.0	100.0

<sup>1</sup> Based on 2000 United States Census for Wichita SMSA.

**Table 4 - Ethnicity of citizens stopped.**

<b>Ethnicity</b>	<b>Percent of population<sup>1</sup></b>	<b>Percent of all stops (2001) (N = 37,454)</b>	<b>Percent of all stops (2004) (N = 25,418)</b>
Hispanic	9.6	9.2	9.5
Non-Hispanic	90.4	90.3	90.4
Not reported	-	.5	.1
Totals	100.0	100.0	100.0

<sup>1</sup> Based on 2000 United States Census for Wichita SMSA.

In 2001 the largest percentage of stops involved individuals between 18 and 24 years old. This was a predictable finding since younger drivers are historically more likely to both drive and violate the traffic law more frequently. In 2004 the trend appears to be slightly different. Stops conducted during the follow up study indicate a trend toward stopping an older segment of the population. The largest percentage of stops during the 2004 follow-up study involved individuals between 35 and 50 years old. This change however, is not particularly important and should not be interpreted to be evidence of a change in the Department's enforcement program (see Table 5). In both the 2001 and 2004 studies males are stopped more frequently than females (see Table 6).

**Table 5 – Age groups of citizens stopped.**

Age groups	Percent of	Percent of
	all stops (2001) (N = 37,454)	all stops (2004) (N = 25,418)
Less than 18	7.7	5.5
18 – 24	29.4	26.8
25 – 34	25.4	25.6
35 – 50	26.7	29.6
Over 50	10.6	12.0
Not reported	.2	.4
Total	100	99.9

NOTE: Percentages may not equal 100.0% due to rounding error.

**Table 6 - Gender of citizens stopped.**

Gender	Percent of	Percent of
	all stops (2001) (N = 37,454)	all stops (2004) (N = 25,418)
Male	65.2	63.3
Female	34.7	36.4
Not reported	.2	.3
Totals	100.1	100.0



### ***The qualitative features of the stops***

Beyond assessing the proportional representation of individuals by race and ethnicity stopped by the police, evaluating what happens during stops is an important analytical component of racial profiling research. The general assumption is that the race or ethnicity of the individuals stopped does not affect what happens during the stops. Given the same set of circumstances and behaviors, what happens during stops is essentially the same regardless of the race or ethnicity of the citizens stopped. An alternative finding adds credibility to the accusation of racial profiling.

Since the beginning of the racial profiling controversy minority groups have accused the police of detaining minority drivers longer at the side of the road. In both the 2001 and 2004 studies the largest proportions of stops lasted from five to fifteen minutes, 51.3 percent and 68.3 percent, respectively. Crosstabulation of stops by race or ethnicity and duration conducted in 2001 found that neither affected the length of time individuals were detained by the police. A similar series of crosstabulations was conducted using the 2004 follow up study data. These analyses reveal that stops involving Black or Hispanic citizens are only slightly more likely to last longer than stops involving individuals of other races. The differences however are well within the range of chance and should not be interpreted to mean that individuals are necessarily detained longer solely because of their minority status (see Tables 7 and 8).

**Table 7 - Crosstabulation of duration of stop and race of citizen (2004).**

	Duration of stop (DURATION)					Totals
	Less than 5 minutes	5 – 15 minutes	16 – 30 minutes	Over 30 minutes	Not reported	
Race of citizen (RACE)						
Asian						
Count	121	524	20	51	7	723
% w/in RACE	16.7	72.5	2.8	7.1	1.0	100.0
% w/in DURATION	3.0	3.0	1.5	2.1	3.1	2.8
Black						
Count	786	2891	364	635	50	4726
% w/in RACE	16.6	61.2	7.7	13.4	1.1	100.0
% w/in DURATION	19.6	16.7	27.2	25.6	22.2	18.6
Native American						
Count	9	28	5	7	1	50
% w/in RACE	18.0	56.0	10.0	14.0	2.0	100.0
% w/in DURATION	.2	.2	.4	.3	.4	.2
Other						
Count	134	546	71	83	8	842
% w/in RACE	15.9	64.8	8.4	9.9	1.0	100.0
% w/in DURATION	3.3	3.1	5.3	3.3	3.6	3.3
White						
Count	2970	13367	876	1704	125	19042
% w/in RACE	15.6	70.2	4.6	8.9	.7	100.0
% w/in DURATION	73.9	77.0	65.6	68.7	55.6	74.9
Not reported						
Count	0	1	0	0	34	35
% w/in RACE	0	2.9	0	0	97.1	100.0
% w/in DURATION	0	0	0	0	15.1	.1
Totals						
Count	4020	17357	1336	2480	225	25418
% w/in RACE	15.8	68.3	5.3	9.8	.9	100.0
% w/in DURATION	100.0	100.0	100.0	100.0	100.0	100.0

**Table 8 - Crosstabulation of duration of stop and ethnicity of citizen (2004).**

	Duration of stop (DURATION)					Totals
	Less than 5 minutes	5 – 15 minutes	16 – 30 minutes	Over 30 minutes	Not reported	
Ethnicity of citizen (ETHNIC)						
Hispanic						
Count	294	1520	212	341	36	2403
% w/in ETHNIC	12.2	63.3	8.8	14.2	1.5	100.0
% w/in DURATION	7.3	8.8	15.9	13.8	16.0	9.5
Non Hispanic						
Count	3726	15837	1124	2139	156	22982
% w/in ETHNIC	16.2	68.9	4.9	9.3	.7	100.0
% w/in DURATION	92.7	91.2	84.1	86.3	69.3	90.4
Not reported						
Count	0	0	0	0	33	33
% w/in ETHNIC	0	0	0	0	100.0	100.0
% w/in DURATION	0	0	0	0	14.7	.1
Totals						
Count	4020	17357	1336	2480	225	25418
% w/in ETHNIC	15.8	68.3	5.3	9.8	.9	100.0
% w/in DURATION	100.0	100.0	100.0	100.0	100.0	100.0

In 2001 only 0.9 percent of all stops included some form of physical resistance; however stops involving Native American, Hispanic, and Black citizens included disproportionately more incidents of physical resistance. For example, Black citizens represented 20.5 percent of all stops in 2001 and 40.5 percent of all incidents of physical resistance (see Tables 9 and 10). In 2004 fewer stops (0.6 percent) involved some form of physical resistance. The pattern of physical resistance, with respect to the race or ethnicity of the drivers also appears to have changed. In 2004 stops involving Hispanic and Native American citizens are not more likely to involve incidents of physical resistance. However, stops involving Black citizens are again more likely to involve physical resistance. Stops involving Black citizens in 2004 represent 18.6 percent of all

stops and 43.4 percent of all stops that include some form of physical resistance (see Tables 11). It is important to note here that the temporal order of stops and physical resistance cannot be established by this data set. Black citizens, as discussed later in this report, are arrested in higher proportions than they are represented among all individuals stopped. It is unclear whether these arrests are the result or the cause of the overrepresentation of Black citizens involved in incidents of physical resistance.

**Table 9 - Crosstabulation of race of citizen and physical resistance (2001).**

		Race of citizen (RACE)					Totals
		Asian	Black	Native American	White	Other	
Physical Resistance (PHYREAS)						Not reported	
No							
Count		1070	7542	102	26261	1826	36842
% w/in PHYREAS		2.9	20.5	.3	71.3	5.0	100.0
% w/in RACE		99.0	97.4	98.1	98.7	98.5	98.4
Yes							
Count		5	134	2	172	17	331
% w/in PHYREAS		1.5	40.5	.6	52.0	5.1	100.0
% w/in RACE		.5	1.7	1.9	.6	.9	.9
Not reported							
Count		6	67	0	185	10	281
% w/in PHYREAS		2.1	23.8	0	65.8	3.6	100.0
% w/in RACE		.6	.9	0	.7	.5	.8
Totals							
Count		1081	7743	104	26618	1853	37454
% w/in PHYREAS		2.9	20.7	.3	71.1	4.9	100.0
% w/in RACE		100.0	100.0	100.0	100.0	100.0	100.0

**Table 10 - Crosstabulation of ethnicity of citizen and physical resistance (2001).**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Physical Resistance (PHYREAS)				
No				
Count	3403	33282	157	36842
% w/in PHYREAS	9.2	90.3	.4	100.0
% w/in ETHNIC	98.3	98.4	89.7	98.4
Yes				
Count	41	280	0	331
% w/in PHYREAS	12.4	87.6	0	100.0
% w/in ETHNIC	1.2	.9	0	.9
Not reported				
Count	18	245	18	281
% w/in PHYREAS	6.4	87.2	6.4	100.0
% w/in ETHNIC	.5	.7	10.3	.8
Totals				
Count	3462	33817	175	37454
% w/in PHYREAS	9.2	90.3	.5	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

**Table 11 - Crosstabulation of race of citizen and physical resistance (2004).**

	Race of citizen (RACE)						Totals
	Asian	Black	Native American	White	Other	Not reported	
Physical Resistance (PHYREAS)							
No							
Count	715	4615	49	18839	832	2	25052
% w/in PHYREAS	2.9	18.4	.2	75.2	3.3	0	100.0
% w/in RACE	98.9	97.7	98.0	98.9	98.8	5.7	98.6
Yes							
Count	1	62	0	78	2	0	143
% w/in PHYREAS	.7	43.4	0	54.4	1.4	0	100.0
% w/in RACE	.1	1.3	0	.4	.2	0	.6
Not reported							
Count	7	49	1	125	8	33	223
% w/in PHYREAS	3.1	22.0	.4	56.1	3.6	14.8	100.0
% w/in RACE	1.0	1.0	2.0	.7	1.0	94.3	.9
Totals							
Count	723	4726	50	19042	842	35	25418
% w/in PHYREAS	2.8	18.6	.2	74.9	3.3	.1	100.0
% w/in RACE	100.0	100.0	100.0	100.0	100.0	100.0	100.0

In 2001 stops involving Black citizens tended to involve more officers than stops involving citizens of other races or ethnicities. A more sophisticated statistical model (logistic regression) found that the race or ethnicity of the citizen did not accurately predict the number of officers present at a traffic stop. The pattern is the same in 2004. Stops involving Black citizens do appear to involve more officers. However, these differences are not enough to conclude that officers routinely request more assistance during stops involving Black citizens.

### *How and why searches were conducted*

In 2001 only about 12.2 percent of all stops involved some form of a search (e.g. consent, inventory, stop and frisk, warrant, incident to arrest, plain view, and probable cause). This initial study also found that stops involving an arrest are very likely to involve a search. Although stops involving Black and Hispanic citizens were more likely to involve a search in 2001, the minority status of the citizen only slightly increased the odds of a search. In 2004 the pattern is quite different. The proportion of stops involving all forms of searches is equivalent to the proportion of all stops involving each racial and ethnic group. For example, stops involving Black citizens in 2004 represent 18.4 percent of all stops and 18.6 percent of all searches. Similarly, stops involving Hispanic citizens in 2004 represent 9.5 percent of all stops and 9.6 percent of all searches (see Tables 12 and 13).

**Table 12 - Crosstabulation of overall searches conducted and race of citizen (2004).**

[illegible]

**Table 13 - Crosstabulation of overall searches conducted and ethnicity of citizen (2004).**

Type of search (GENSERIND)	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Search conducted				
Count	1257	11827	18	13102
% w/in GENSERIND	9.6	90.3	.1	100.0
% w/in ETHNIC	53.2	52.3	94.7	52.4
No search conducted				
Count	1108	10807	1	11916
% w/in GENSERIND	9.3	90.7	0	100.0
% w/in ETHNIC	46.8	47.7	5.3	47.6
Totals				
Count	2365	22634	19	25018
% w/in GENSERIND	9.5	90.5	.1	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

Stop and frisk and consent searches tend to receive the most attention in racial profiling research. These types of searches are highly discretionary. For more than 40 years police officers have been allowed to conduct stop and frisk searches, commonly called ‘pat-downs’. These searches do not require a warrant but can only be conducted if the officer has a reasonable suspicion (based on the totality of the circumstances present) that an individual is in possession of a weapon that could be used to harm the officer. Stop and frisk searches are more common in densely populated neighborhoods with frequent pedestrian traffic. Often these areas are also populated predominately by racial and ethnic minorities. Consent searches are a relatively common form of warrantless search. A police officer can ask anyone at any time for consent to search their house, vehicle, or person without establishing a reasonable suspicion, much less probable cause. Essentially, when a police officer asks for consent to search he is asking an individual to



waive their Fourth Amendment rights prohibiting unreasonable search and seizure.

Consent searches are an integral part of a comprehensive enforcement program and are critical to most drug interdiction programs. But because they do not require police officers to articulate probable cause they are sometimes used a little more than ‘fishing expeditions’. Because of this racial profiling researchers tend to pay particular attention to consent and stop and frisk searches.

The 2004 data reveals a pattern that should be of some concern to the Department. Black citizens represent 18.4 percent of all searches and 30.8 percent of consent searches and 17.4 percent of stop and frisk searches (see Tables 14 and 15). Hispanic citizens represent 9.5 percent of all searches and 17.6 percent of consent searches and 9.0 percent of stop and frisk searches (see Tables 16 and 17). These patterns suggest that Black and Hispanic citizens are subjected to disproportionately higher numbers of discretionary consent searches.



**Table 16 - Crosstabulation of consent searches conducted and ethnicity of citizen (2004).**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Type of search				
Consent search conducted				
Count	64	299	1	364
% w/in ConSerInd	17.6	82.1	.3	100.0
% w/in ETHNIC	2.7	1.3	5.3	1.5
Consent search not conducted				
Count	2301	22335	18	24654
% w/in ConSerInd	9.3	90.6	.1	100.0
% w/in ETHNIC	97.3	98.7	94.7	98.5
Totals				
Count	2365	22634	19	25018
% w/in ConSerInd	9.5	90.5	.1	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

**Table 17 - Crosstabulation of stop and frisk searches conducted and ethnicity of citizen (2004)**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Type of search				
Stop/Frisk search conducted				
Count	1058	10749	2	11809
% w/in StFrSerInd	9.0	91.0	0	100.0
% w/in ETHNIC	44.5	47.3	9.5	47.0
Stop/Frisk search not conducted				
Count	1317	11960	19	13296
% w/in StFrSerInd	9.9	90.0	.1	100.0
% w/in ETHNIC	55.5	52.7	90.5	53.0
Totals				
Count	2375	22709	21	25105
% w/in StFrSerInd	9.5	90.5	.1	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

Of the 37,454 stops conducted in 2001 only 4,567 (12.2 percent) involved a search. Some form of illegal contraband (currency, firearms, other weapons, drugs and drug paraphernalia, alcohol, tobacco, stolen property, and other contraband) was seized in 1,247 (27.3 percent ) of these searches. Also, the seizure (hit) rates were equal for all racial and ethnic groups. In other words, the 2001 study revealed that race and ethnicity were not accurate predictors of contraband possession and that Wichita Police Department officers do not appear to use race or ethnicity as a general indicator of criminal activity when deciding whom to search. Since 2001 the productivity of Wichita Police Department officers appears to have improved dramatically. Of the 25,418 stops recorded during the 2004 follow up study, 13,102 (51.5 percent) involved some form of a search. Of these, contraband was seized in at least 12,357 (94.3 percent) of them. When compared to the performance of similarly sized police Departments throughout the nation this is an inordinately high rate of searches and seizures. It is likely that one of two factors affected this outcome. First, the data may have been coded incorrectly at some point in the collection process. Second, the instructions given to the patrol officers responsible for completing the forms may have inadvertently defined a search too broadly. In either case, the researcher is not confident that the data accurately reflect the volume and efficiency of searches. Of more importance to this research is the seizure rate with respect to the race or ethnicity of the citizen. As was found in 2001, the seizure (hit) rates are equal for all racial groups. For example, Black citizens accounted for 18.5 percent of all searches and 18.5 percent of all searches resulting in the seizure of contraband. Hispanic citizens accounted for 9.5 percent of all searches and 9.4 percent of all searches resulting in the seizure of contraband (see Tables 18 and 19).

**Table 18 – Crosstabulation of overall search hit rates (at least one item found) by race (2004)**

	Race of citizen (RACE)						Totals
	Asian	Black	Native American	White	Other	Not reported	
Contraband seized							
Count	718	4634	50	18852	830	21	25105
% w/in Seized_y_n	2.9	18.5	.2	75.1	3.3	.1	100.0
% w/in RACE	99.7	98.9	100.0	99.4	98.9	70.0	99.3
Contraband not seized							
Count	2	50	0	110	9	9	180
% w/in Seized_y_n	1.1	27.8	0	61.1	5.0	5.0	100.0
% w/in RACE	.3	1.1	0	.6	1.1	30.0	.7
Totals							
Count	720	4684	50	18962	839	30	25285
% w/in Seized_y_n	2.8	18.5	.2	75.0	3.3	.1	100.0
% w/in RACE	100.0	100.0	100.0	100.0	100.0	100.0	100.0

**Table 19 – Crosstabulation of overall search hit rates (at least one item found) by ethnicity (2004)**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Contraband seized				
Count	2362	22724	19	25105
% w/in Seized_y_n	9.4	90.5	.1	100.0
% w/in ETHNIC	98.8	99.4	67.9	99.3
Contraband not seized				
Count	29	142	9	180
% w/in Seized_y_n	16.1	78.9	5.0	100.0
% w/in ETHNIC	1.2	.6	32.1	.7
Totals				
Count	2391	22866	28	25285
% w/in Seized_y_n	9.5	90.4	.1	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

### ***The results of the stops***

In 2001 the most common result of a police/citizen contact was a moving violation citation. The same pattern exists in 2004. Consistent with the previously mentioned finding that Wichita Police Department officers are conducting more stops for officer observed moving violations, they are also writing more citations (see Table 20).

**Table 20 - General results of the stops.**

<b>Results of the stops</b>	<b>Percent of total stops (2001)</b>	<b>Percent of total stops (2004)</b>
Felony arrest	1.1	1.3
Felony arrest (warrant)	.3	.3
Misdemeanor arrest	6.7	4.8
Misdemeanor arrest (warrant)	1.4	1.0
Misdemeanor (Notice to appear)	.6	.4
Moving violation citation	50.3	67.3
Verbal warning (moving violation)	6.1	7.4
Defective equipment violation citation	6.3	5.1
Verbal warning (defective equipment)	1.7	2.1
Seat belt violation	.5	.2
Police case generated (citizen)	5.6	.7
Police case generated (police)	5.7	1.2
No action taken	9.1	5.5
Stranded motorist assist	1.6	.5
Non-traffic citizen assist	.9	.3
Field interview completed	.2	.2
Field questioned (no FI)	1.5	1.0
Turned over to another agency	.1	0
Not reported	.3	.7
Totals	100.0	100.0

Arrests, one of the most punitive actions that can be taken by a police officer on an individual, represent only 7.4 percent of all stop outcomes. Ideally there should be some relationship between the seriousness of the behavior for which a person is stopped and the level of punitiveness of the stop's result. For example, a person stopped for a relatively serious violation (e.g. driving under the influence) should likely receive a more punitive sanction, like an arrest. Alternatively, a person stopped for a relatively minor violation (e.g. failing to signal a lane change) should likely receive a less punitive

sanction, like a citation or verbal warning. Unfortunately the structure of this data set (as well as the 2001 initial study) cannot determine this relationship. It is possible to organize the stop results with respect to their level of punitiveness, i.e. arrest being more punitive than a citation or a citation being more punitive than a verbal warning. It is however, not possible to similarly rank order the reasons for the stop with respect to their level of seriousness. For example, the most commonly reported reason for a stop in 2001 and 2004 was an officer observed moving violation. This does not indicate the relative seriousness of the moving violation. The moving violation observed by the officer could have been as serious as speeding through an active school zone or as benign as a broken taillight lens.

The data do however allow us to determine whether differences in stop outcomes (arrest or non-arrest) vary with respect to the race or ethnicity of the individual stopped. The 2004 follow up data reveal that Black, Native American and Hispanic citizens are arrested at disproportionately higher rates than White, Asian, Other race or Non-Hispanic citizens. For example, Black citizens represent 18.6 percent of all stops and 35.2 percent of all persons arrested. Hispanic citizens represent 9.4 percent of all persons stopped and 14.2 percent of all persons arrested. However, Black citizens represent 42.1 percent of all persons arrested on the basis of a previously issued (by a court) arrest warrant (see Tables 21 and 22). Hispanic citizens represent 13.6 percent of all persons arrested on the basis of a previously issued (by a court) arrest warrant (see Tables 23 and 24). While this may appear to indicate that these minority citizens are, as a group, treated more harshly than non-minority citizens, it is important to notice that a fair proportion of these arrests are non-discretionary. In these situations the decision to arrest is not made by the arresting







**Table 23 – Crosstabulation of arrests (all types) and ethnicity (2004).**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
Type of search				
Arrest				
Count	267	1616	1	1884
% w/in arrest	14.2	85.8	.1	100.0
% w/in ETHNIC	11.2	7.1	33.3	7.5
No arrest				
Count	2107	21236	2	23345
% w/in arrest	9.0	91.0	0	100.0
% w/in ETHNIC	88.8	92.9	66.7	92.5
Totals				
Count	2374	22852	3	25229
% w/in arrest	9.4	90.6	0	100.0
% w/in ETHNIC	100.0	100.0	100.0	100.0

**Table 24 – Crosstabulation of warrant arrests and ethnicity (2004).**

	Ethnicity of citizen (ETHNIC)			Totals
	Hispanic	Non Hispanic	Not reported	
<b>Type arrest</b>				
<b>Warrant arrest</b>				
<b>Count</b>	45	285	0	330
<b>% w/in warrant</b>	13.6	86.4	0	100.0
<b>% w/in ETHNIC</b>	1.9	1.2	0	1.3
<b>Non warrant arrest</b>				
<b>Count</b>	222	1331	1	1554
<b>% w/in warrant</b>	14.3	85.6	.1	100.0
<b>% w/in ETHNIC</b>	9.4	5.8	33.3	6.2
<b>No arrest</b>				
<b>Count</b>	2107	21236	2	23345
<b>% w/in warrant</b>	9.0	91.0	0	100.0
<b>% w/in ETHNIC</b>	88.8	92.9	66.7	92.5
<b>Totals</b>				
<b>Count</b>	2374	22852	3	25229
<b>% w/in warrant</b>	9.4	90.6	0	100.0
<b>% w/in ETHNIC</b>	100.0	100.0	100.0	100.0

## Discussion

Of the more than 400 racial profiling studies conducted nationwide since 1995 only one other community has conducted a full-scale replication of its initial study. The San Diego Police Department conducted a comprehensive racial profiling analysis in 2000. Then in 2001 they replicated their study. According to a January 13, 2003 news release from the City of San Diego;

- In 2001 vehicle stops, Black/African American drivers represented 10 percent of stops and 7 percent of San Diego's estimated driving-age population. Hispanic drivers represented 28 percent of stops and 22 percent of San Diego's estimated driving-age population. Both of these proportions were smaller in 2000.
- In 2001 vehicle stops, Asian/Pacific Islanders represented 12 percent of stops and 15 percent of San Diego's estimated driving-age population. Whites represented 50 percent of stops and 55 percent of San Diego's estimated driving-age population. Both of these proportions were about the same in 2000.

- In 2001 searches related to vehicle stops, Black/African American drivers represented 16 percent of searches, a reduction from 18 percent in 2000. Hispanics represented 50 percent of searches, a reduction from 52 percent in 2000. Whites represented 29 percent of searches, compared to 25 percent in 2000. Asian/Pacific Islanders represented 6 percent of searches, the same percentage in 2000.
- The researchers reported a 28 percent decrease in the number of vehicle stop forms submitted by officers. The lower number of completed forms submitted in 2001, compared to the number of written warnings and citations, raises “serious questions about the validity of the vehicle stop data.”

Overall, it appears that the Wichita Police Department’s administrative responses to racial profiling have been effective. The proportion of Black citizens stopped by the police, while still proportionately higher than the estimated percentage of Black citizens at risk of being stopped (11.4 percent), is lower in 2004 (18.4 percent) than it was in 2001 (20.7 percent). The proportions of searches conducted within each racial and ethnic group are equal to the proportional representation of individuals stopped. For example, in 2001 Black citizens represented 20.7 percent of all individuals stopped and 36.0 percent of all individuals searched. Similarly, in 2001 Hispanic citizens represented 9.2 percent of all individuals stopped and 12.5 percent of all individuals searched. In 2004 these patterns are remarkably different. Black citizens represent 18.4 percent of all individuals stopped and 18.6 percent of all individuals searched. Hispanic citizens represent 9.5 percent of all individuals stopped and 9.6 percent of all individuals searched. Search hit rates are also proportionally balanced. The proportions of searches that resulted in the seizure of contraband are equal to the proportions of searches by racial and ethnic group. Consistent with the research from other Departments nationwide, there is no evidence that racial and ethnic minorities are more likely to be in possession of illegal contraband. This finding also demonstrates that Wichita Police Department

officers are remarkably skilled at applying objective and empirically valid criteria to identify individuals most likely in possession of illegal substances.

The decrease in the overrepresentation of Black citizens in police contacts from 2001 to 2004 is encouraging, but should be qualified. It is immensely difficult to estimate the racial and ethnic proportions of individuals at risk of being stopped. Most racial profiling researchers rely on benchmarks based on population to estimate the racial and ethnic proportions of individuals that drive in a community. To accept population estimates as the basis for a benchmark one must accept the following assumptions. First, one must assume that the racial proportions of residents equal the racial proportions of drivers *and* traffic law violators. For example, if twenty percent of the resident population is minority, then twenty percent of the drivers and traffic law violators are minority. Second, one must assume that police resources (i.e. patrol) are equally distributed throughout the research area. For example, an individual's risk of being stopped for a traffic violation is essentially equal throughout the city. Third, regardless of their assignment and personal preferences police officers are equally attentive to all potential law violations and apply consistent enforcement criteria. If an observed violation precipitates a stop and citation from one officer then the same violation would produce a stop and citation from another officer. If we accept these assumptions then we can conclude that if members of certain racial or ethnic groups are overrepresented in police stops data (when compared to the population based benchmark) then an individual's race might play an important role in influencing a police officer's decision to initiate a traffic stop. Unfortunately, we are not able to accurately determine the extent to which these assumptions are valid. For example, national research consistently indicates

that Black families own fewer cars per household and use public transportation more frequently than White families. Furthermore, we do not know whether the rate of traffic violation varies with respect to race or ethnicity. Some researchers find that minorities do not violate the traffic law more frequently than non-minority drivers, while other researchers find that minority drivers are more likely to violate traffic laws. Unless, and until, racial profiling researchers are able to accurately estimate the racial and ethnic representation of individuals at risk of being stopped then our ability to determine the disparate effect of an enforcement program will not be possible.

One of the most encouraging findings from the 2004 follow up study was the relative parity existing between the proportion of stops and searches by racial and ethnic group. In 2001 it was clear that minorities were more likely to be searched during a stop than non-minorities. Not so in 2004. Neither the race nor the ethnicity of an individual affects the probability of a search during a stop. While encouraging, one should consider that this finding based on all types of searches. Considerable disparity (with respect to race and ethnicity) exists with respect to highly discretionary consent searches. Black citizens represent 18.4 percent of all stops and 30.8 percent of all consent searches. Hispanic citizens represent 9.5 percent of all stops and 17.6 percent of all consent searches. Since 2001 racial profiling researchers have learned to evaluate police searches with respect to the officer's level of discretion. Police officers have very little discretion when conducting searches pursuant to a lawful arrest, a warrant issued by a magistrate, a vehicle inventory search, or the observance of contraband in plain view of the officer. In these instances police officers are required by law or policy to conduct a search. Furthermore, these types of searches are predicated by probable cause, a level of proof

much higher than reasonable suspicion, that an offense is or will be committed. Consent searches are fundamentally different. These searches do not require officers to articulate a reasonable suspicion (much less a probable cause) to believe criminal activity is occurring. A police officer may ask anybody, anytime, for any reason (or for no reason at all) for permission to conduct a search of their home, car, office, person, etc. All citizens of the United States have a constitutional right to refuse to give their consent, however most people, when asked, will allow a police officer to conduct a search. Because of this, consent searches are a low cost and highly beneficial enforcement tool. They also have a high potential for abuse. Some departments are considering controlling consent searches by requiring officers to articulate reasonable suspicion and/or informing citizens of their right to refuse consent to submit to a search. Either of these practices would likely deter officers from highly discretionary 'fishing expeditions, and thereby reduce the number of arbitrary consent searches conducted.

With one exception the pattern of stops involving physical resistance (with respect to race or ethnicity) remained relatively unchanged from 2001. Three years ago stops involving Black and Hispanic citizens were more likely to include an incident of physical resistance. In 2004 this pattern remains for stops involving Black citizens, but stops involving Hispanic citizens are not more likely to include an incident of physical resistance. As in 2001 stops involving minority citizens are only slightly more likely to be longer in duration and involve more officers than stops involving non-minorities. Of more concern is that stops involving Black and Hispanic citizens are (as in 2001) more likely to result in an arrest than stops involving other racial groups. This disparity in arrests is even more pronounced in non-discretionary (warrant) based arrests. It is likely

that the overrepresentation of Black and Hispanic citizens in stops resulting in arrests explains their overrepresentation in incidents of physical resistance, longer duration stops and stops involving more officers. Here again, the data cannot determine the temporal order of physical resistance, duration, number of officers, and an arrest. For example, it is unclear whether an incident of physical resistance was the cause or the result of an arrest. More importantly, the data cannot explain why Black and Hispanic citizens are more likely to be arrested than individuals of other races. In other words, the data cannot determine whether an individual's race or ethnicity versus their behavior affects their probability of being arrested. There is no indicator of behavioral seriousness, nor does the data measure various extra-legal factors (e.g. attitude, demands of victims, etc.) that are known to affect police officer decision making. Although beyond the scope of this report, an analysis of the disposition of arrests (by racial and ethnic group) may provide some insight. For example, if Black citizens are more likely to be arrested but less likely to be formally charged then one might conclude that the police are using arrests punitively.

## **Conclusion**

Very few of the nearly 400 racial profiling studies conducted nationwide since the mid-1990's have been truly voluntary. Most police administrators know beforehand that racial profiling studies will likely reveal disparate patterns in enforcement activities with respect to race or ethnicity and as a result are seldom willing to subject their departments to the rigors of data collection and the resulting public scrutiny. In addition, the research indicates that very few departments make substantial administrative changes when racial and ethnic disparities are found. Fewer still can demonstrate that their efforts have any effect on reducing the overrepresentation of minorities in stops. The Wichita Police



Department is an exceptional department. In 2001 it voluntarily subjected itself to public scrutiny and launched what was, and remains, one of the most comprehensive racial profiling studies ever conducted. Then, in response to the 2001 findings, the Department made a number of important administrative and policy changes. Three years later there is ample evidence that the Department's responses to racial profiling are beginning to work. For their efforts the Wichita Police Department should be commended, but two important issues remain to be addressed.

First, the Department should develop a mechanism to control, or at least objectify, consent searches. Requiring officers to articulate (and document) evidence of potential criminal activity, even if it does not arise to the level of reasonable suspicion, before requesting consent to search may be an important first step. The current policy only recommends that officers seek written consent prior to conducting a search. In addition, the Department should consider formalizing the consent search process in a way similar to how custodial searches were formalized after *Miranda*. This would require officers to inform individuals that they have the right to refuse to give their consent to be searched and that consent be given in writing.

Second, neither the 2001 nor 2004 data indicate differences with respect to race or ethnicity in the reasons for which individuals are stopped. Minorities are stopped for essentially the same reasons and in the same proportions as non-minorities. Despite this the proportion of stops that result in arrests remains substantially higher for Black and Hispanic citizens. Should the Department chose to replicate this study in the future additional information about the severity of an individual's behavior preceding the stop and other contextual indicators would be essential for isolating the effects (if any) of race

or ethnicity in this form of police decision making. In the interim, it might be useful to analyze the disposition of arrests (i.e. accepted for prosecution, conviction rates, etc.) with respect to race or ethnicity.

Finally, the Wichita Police Department defines racial profiling as “the detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics”. While the 2001 and 2004 analyses reveal evidence of racial disparity in the Department’s enforcement activities they should not be interpreted as evidence of racial profiling. To adequately address racial profiling, as defined by the Department, the analyst must be able to measure the relative influence of various factors affecting the officers’ enforcement decisions. Unfortunately, the available data sets provide no insight into what factors influence an officer’s decision to initiate a traffic stop, conduct a search, or make an arrest. An overrepresentation of certain racial groups in traffic stops compared to what we believe to be an inaccurate measure of individuals at-risk of being stopped (the population based benchmark) is simply not enough to allege racial profiling, much less racial prejudice on the part of Wichita Police Department officers. To overcome the problems associated with the benchmark the researcher conducted a separate analysis comparing each officer’s stopping behavior (with respect to the race or ethnicity of the driver) against that of similarly situated (same beat) officers. Officers working the same beats are exposed to essentially the same driving populations, and likely the same enforcement criteria. This type of analysis would identify officers that stop disproportionately higher proportions of racial or ethnic minorities than are

stopped by other officers working in the same general patrol area, i.e. neighborhood. In this particular situation no such pattern was revealed. The pattern of patrol consistency, evident in the 2001 study, remains intact for every officer within every shift and every patrol beat. In short, these analyses do not support a finding that Wichita Police Department officers use the race or ethnicity of a driver as a means of determining which drivers to stop.